

HOUSE No. 3082

The Commonwealth of Massachusetts

PRESENTED BY:

Denis E. Guyer

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to promote recycling in the Commonwealth's communities and schools.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Denis E. Guyer	2nd Berkshire
Tom Sannicandro	7th Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3314 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO PROMOTE RECYCLING IN THE COMMONWEALTH'S COMMUNITIES AND SCHOOLS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Purpose

Whereas, the Commonwealth of Massachusetts aims to increase recycling in order to reduce solid waste,
Whereas, all citizens of the Commonwealth can help reduce solid waste by recycling,
Whereas, Chapter 94 of the General Laws successfully helped reduce solid waste and increase recycling in the Commonwealth,
Whereas, the consumption of beverages other than defined under Chapter 94 section 321 has increased dramatically since 1992,
Whereas, the escheat provision of 1989 to use abandoned deposits into the Clean Environment Fund (CEF) has been eliminated and the recycling projects supported by funding from the CEF have been reduced or eliminated, and
Whereas, the Clean Environment Fund is self-sustaining and supports essential programs,
Therefore, the General Court finds it necessary to expand the current bottle recycling program and to reestablish the clean environment fund to support recycling in schools and municipalities across the commonwealth:

SECTION 2. Chapter 29 of the General Laws is hereby amended by inserting the following new section:

Section 2000. – CLEAN ENVIRONMENT FUND

- (a) There shall be established on the books of the commonwealth a separate fund to be known as the Clean Environment Fund, the funds of which shall be expended for the purpose of increasing recycling in the commonwealth.
- (b) The fund shall consist of the amounts specified in and collected pursuant to section 323D of Chapter 94 and any interest earned from this fund.
- (c) The state treasurer shall deposit these amounts annually into the fund, which shall be expended according to the following formula:
 - a. 20% to the Department of Environmental Protection (DEP) to fund recycling programs in schools, including technical assistance, equipment, curriculum and other aspects of school-based recycling programs,
 - b. Up to 15% to the DEP for costs incurred from the implementation, enforcement and administrative duties performed under Chapter 94 Section 321-327 of the Massachusetts General Laws,

- c. Up to 10% to the DEP for low-interest loans for businesses defined as “bottler”, “dealer”, “distributor”, or “redemption center” under Chapter 94 Section 321 to improve management relating to Chapter 94 Section 321-327,
- d. Up to 5% to be used by the Office of the State Auditor for oversight, enforcement, and other costs resulting from Chapter 94 Section 321-327.
- e. All remaining amounts shall be utilized for efforts to create, enhance and expand municipal recycling programs.

SECTION 3. Section 321 of Chapter 94 of the General Laws is hereby amended by striking out the definitions for “beverage” and “beverage container” and inserting in place thereof the following definitions:

“Beverage”, soda water or similar carbonated soft drinks; non-carbonated beverages including mineral water, flavored and unflavored water, spring water, and other water beverages; tea, coffee, sports drinks, isotonic drinks; hard cider, beer and other malt beverages; wine and wine-based drinks; spirits and spirit-based drinks; and all other non-alcoholic carbonated drinks in liquid form intended for human consumption except milk and beverages that are primarily derived from dairy products, infant formula, and FDA approved medicines.

“Beverage container”, any sealable bottle, can, jar, or carton which is primarily composed of glass, metal, plastic or any combination of those materials and is produced for the purpose of containing a beverage, which, at the time of sale, contains four liters or less of a beverage. This definition shall not include containers made of paper-based biodegradable material and aseptic multi-material packaging.

“Plastic Bottle”, a plastic container that has a neck that is smaller than the body of the container, accepts a screw-type, snap cap or other closure and has a capacity of one and one-half fluid ounces or more, but less than five gallons.

“Rigid plastic container”, any formed or molded container, other than a bottle, intended for single use, composed predominantly of plastic resin and has a relatively inflexible finite shape or form and has a capacity of one and one-half fluid ounces or more, but less than five gallons.

SECTION 4. Section 321 of Chapter 94 of the General Laws is hereby amended by adding the following definitions:

“Redemption center”, any business whose primary purpose is the redemption of beverage containers and is not ancillary to any other business, and that employs at least two full-time employees who spend at least seventy-five percent of their time in the business of collecting and redeeming empty beverage containers.

“Small Dealer”, any business, including any operator of a vending machine, employing the equivalent of ten full-time employees or less, who engages in the sale of beverages in beverage containers to consumers in the Commonwealth.

SECTION 5. Section 323 of Chapter 94 of the General Laws is hereby amended by striking paragraphs (a), (b), (c), (d) and (e) and inserting in place thereof the following:

- (a) Every consumer shall deposit with the dealer the full refund value of each beverage container purchased for that dealer.
- (b) Except as provided in paragraph (f), a distributor shall accept from any person during business hours any empty beverage container of the type, size and brand sold by the dealer within the past sixty days and shall pay that person the full refund value of each beverage container returned.
- (c) Except as provided in paragraph (f), a distributor shall accept from any dealer any empty beverage container of the type, size and brand sold by the distributor within the past sixty days and shall pay the dealer the refund value to the beverage container plus a handling fee of at least three cents per container if the empty beverage container is presented at the time and of and at the location at which the dealer obtains billed beverage containers from the distributor. The handling fee shall be reviewed semi-annually by the Secretary of the Executive Office of Environmental Affairs and adjustments made to reflect increases in costs incurred by redemption facilities.
- (d) Except as provided in paragraph (f), a bottler shall accept from a distributor of a dealer any empty reusable beverage container of the type, size, and brand sold by the bottler within the past sixty days and shall pay the distributor or dealer the refund value of the reusable beverage container plus a handling fee of at least three cents per container if the empty reusable beverage container is presented at the time and at the location where the distributor or dealer obtains filled reusable beverage containers from the bottler; provided, however, that a bottler other than a bottler of soft drinks manufacturing in the commonwealth who offers to refund deposits in accordance with this section, shall not require a distributor to deposit with the bottler the refund value of a beverage container which is not reusable, nor shall a bottler require of a distributor that beverage containers which are not

reusable, be presented to the bottler at the location where the distributor obtains filled beverage containers. The handling fee shall be reviewed semi-annually by the Secretary of the Executive Office of Environmental Affairs and adjustments made to reflect increases in costs incurred by redemption facilities.

(e) Any person may establish a redemption center and shall have the right to determine what type, size and brand of beverage container shall be accepted. Except as provided in paragraph (f), a distributor shall take from any redemption center any empty beverage container of the type, size and brand sold by the distributor within the past sixty days and shall pay the redemption center the full refund value of the container plus a handling fee of at least three cents per container. The executive office of environmental affairs shall promulgate rules and regulations for the licensure of redemption centers, and may set fees for the licensing of such redemption centers. The handling fee shall be reviewed semi-annually by the Secretary of the Executive Office of Environmental Affairs and adjustments made to reflect increases in costs incurred by redemption facilities.

SECTION 6. Section 323 of Chapter 94 of the General Laws is hereby amended by striking paragraph (i) and inserting in place thereof the following:

(i) The obligations to accept or take empty beverage containers and to pay the refund value and handling fees for such containers as described in paragraphs (b), (c), (d) and (e) shall apply only to containers originally sold in the commonwealth as filled beverage containers. Any person who tenders to a dealer, distributor, redemption center or bottler more than one hundred empty beverage containers each, which he knows or has reason to know were not originally sold in the commonwealth as filled beverage containers, for the purpose of obtaining a refund value or handling fee, shall be subject to the enforcement action and civil or administrative penalties set forth in section three hundred and twenty-seven. At each location where persons tender containers for redemption, dealers and redemption centers shall conspicuously display a sign in letters that are at least one inch in height with the following information: "WARNING: Persons tendering containers for redemption that were not originally purchased in Massachusetts may be subject to a fine of the greater of one-hundred dollars per container or twenty-five thousand dollars for each tender of containers (G.L. C.94 s.327)." For the purpose of this section and section three hundred and twenty-seven, the term person shall include any individual, partnership, corporation, or other combination or entity.

SECTION 7. Section 326 of Chapter 94 of the General Laws, is hereby amended by striking the first paragraph and inserting in place thereof the following:

The secretary of environmental affairs shall administer the provisions of sections three hundred and twenty-one, three hundred and twenty-two, paragraphs (a) to (f), inclusive, and paragraph (i) of section three hundred and twenty-three, three hundred and twenty-three F, three hundred and twenty-four and three hundred and twenty-five. Said secretary shall promulgate and from time to time revise rules and regulations to effectuate the purposes of said sections. Said secretary shall have the discretion to exempt small dealers, as defined in section 321 of chapter 94, from the provisions of said sections as pertaining to wine and wine-based drinks, spirits and spirit-based drinks, hard cider, and all non-carbonated drinks until June first, two thousand and nine, in order to allow small dealers sufficient time to comply with these additional requirements.

SECTION 8. Section 326 of Chapter 94 of the General Laws, is hereby amended by inserting at the end of the section the following new paragraph:

The secretary shall file an annual report on the implementation of the "Bottle Bill," so-called, with the house and senate committees on ways and means on or before December thirty-first of each year. The report shall contain, but not be limited to, information concerning state wide redemption rates of beverage containers, an evaluation of the bottle bill program, and as necessary, suggestions to improve the program.

SECTION 9. Section 327 of Chapter 94 of the General Laws, as so appearing, is hereby amended by inserting after the first paragraph the following new paragraphs:

The department of environmental protection shall have authority to enforce the provisions of sections three hundred and twenty-one; three hundred and twenty-two; paragraphs (a) through (f) inclusive, and paragraph (i) of section three hundred and twenty-three; three hundred and twenty-three A; three hundred and twenty-three F; three hundred and twenty-four; and three hundred and twenty-five. Any bottler, distributor, redemption center or dealer who violates any of the foregoing provisions shall be subject to an administrative penalty for each violation of at least five hundred dollars and not more than two thousand dollars.

139 The department of revenue shall have authority to enforce the provisions of paragraphs (g) and (h) of
140 section three hundred and twenty-three and sections three hundred and twenty-three B to three hundred and
141 twenty-three E, inclusive. Any bottler, distributor, redemption center, or dealer who violates any of the
142 foregoing provisions shall be subject to an administrative penalty for each violation of at least five hundred
143 dollars and not more than two thousand dollars.

144 SECTION 10. Section 327 of Chapter 94 of the General Laws, as so appearing, is hereby amended by adding after
145 the word "civil" in line 14 the words "or administrative".

146 SECTION 11. This act shall take effect on January first, two thousand and nine.